

December 20, 2023

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From:
Jeffery Battle. Plaintiff
P.O. Box 448
Laurel, MD 20725

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To:
Honorable Lydia Kay Griggsby
United States District Judge
United States District Court, District of Maryland
6500 Cherrywood Lane, Suite 400
Greenbelt, MD 20770

Re: Plaintiff Response to the Defendant's proposed Motion to Compel Arbitration and Dismiss filing, dated December 18, 2023, Jeffery Battle v. Microsoft Corporation, No. 1:23-cv-01822-LKG

The plaintiff disagrees with the Defendant's (Microsoft) intent to file a Motion to Compel Arbitration and Dismiss filing, and requests the dismissal of the defendant's request to file a Motion to Compel Arbitration and Dismiss, (Battle v Microsoft 1:23-cv-01822).

Pursuant to Your Honor's Case Management Order Section 11.A.2, Plaintiff files this Notice of Intent to File a Motion for Summary Judgment to settle this case.

Background:

Note: Microsoft changed the language of the Microsoft Service Agreement in October 2023, after the filing of the Plaintiff's civil complaint in July 2023, and prior to their December 18, 2023 court response for intent to file a Motion to Compel.

Plaintiff is a user of an online service of Microsoft (Hotmail) email account, only, which is known by the defendant at (jefbttl@hotmail.com). He initially agreed to the terms and use of his email account in 2003, prior to the filing of the civil complaint in July 2023. BING was launched in early 2023 and Microsoft change the terms and condition for the use of their products in October 2023.

The plaintiff was submitting Press Releases though a private service for the launch of his autobiography and company. While checking the results of press releases on Microsoft (BING) and Google, without prompting, BING allegedly labeled the Plaintiff as a terrorist, his personal property as terrorist-owned, and other negative unprompted information appeared.

The defendant's argument of a 2003 email Microsoft Service Agreement covering BING's, unprompted and false Artificial intelligence (AI) outputs, from a new (2023) product other than Plaintiff's Hotmail email, is without merit.

A Hotmail (email account) MSA dated 2003, prior to the launch of BING, does not shield Microsoft BING from civil litigation in this matter, and the defendant's submitted case law does not support their position.

Numerous attempts were made to resolve this dispute with the defendant Microsoft through their required Case Management internet portal (Report a Concern to BING) web interchange, from May to July of 2023. The defendant did not respond to the Plaintiff's numerous written issues. With no recourse, a Cease-and-Desist notice was forwarded to Microsoft by an attorney with no response from the defendant. Following, a civil case was entered.

In the defendant's response dated December 18, 2023, the Defendant offered no disputes of the facts contained within the civil complaint.

Plaintiff's civil filings are not subject to a Microsoft Service and Arbitration Agreement, and the numerous issues presented in the lawsuit are not arbitrable.

The plaintiff respectfully requests that the personal injury case remain in Maryland District Court. In addition, this civil case is in the interest of the national public due to limited case law standards towards public AI use, including BING.

Parties' Correspondence:

On December 19, 2023, Defendant representative, Daniel L. Tobey, confirmed in email correspondence, that he was opposed to Plaintiff's proposed Motion for Summary Judgement stating, "the proposed motion for summary judgment is untimely and premature."

Sincerely,

A handwritten signature in black ink that reads "Jeffery Battle". The signature is written in a cursive, flowing style.

Jeffery Battle